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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,502

08/20/2007

Pawel Drabarek

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26646 7590 09/11/2009  
KENYON & KENYON LLP  
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NEW YORK, NY 10004

EXAMINER

LYONS, MICHAEL A

ART UNIT

PAPER NUMBER

2877

MAIL DATE

DELIVERY MODE

09/11/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,502	<b>Applicant(s)</b> DRABAREK, PAWEL	
	<b>Examiner</b> MICHAEL A. LYONS	<b>Art Unit</b> 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balachandran et al (US 6,901,176).**

Regarding claim 8, Balachandran (Fig. 3) discloses an interferometric measuring system comprising a transmitting element including a modulation interferometer 22 and a radiation source 38 for short-coherent radiation; a measuring probe system 40 connected to the transmitting element and for supplying the radiation via a common optical path (see optical fibers in Figure 3); a receiving element 28 that is connected to processor 42 to which it sends signals for analyzing a measuring radiation returning from the measuring probe system; wherein the measuring probe system includes a plurality of measuring probes 12 coupled to the common optical path via respective optical paths 32; and a switching device 30 disposed at a coupling point between the common optical path and the respective optical paths to the measuring probes, wherein the switching device allows the different measuring probes to be individually brought into a bidirectionally transmitting connection with the transmitter and receiver for the radiation supplied by the modulation interferometer, on the one hand, and the measuring radiation, on the other hand (see, for instance, Col. 8, line 61 – Col. 9, line 26).

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Balachandran, however, fails to disclose the transmitting unit and the receiving unit integrated in the same unit.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to integrate the transmitting and receiving unit of Balachandran into a single transmitting/receiving unit as per the instant claim, the motivation being that integrating parts has been held to be within the realm of one of ordinary skill in the art as a matter of obvious design choice, in addition to the benefits in the instant sense of making the device more compact. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

As for claim 9, Balachandran discloses the use of a single mode fiber (see, for instance, Col. 9, line 32).

As for claims 10-12, Balachandran discloses optical switch 30, which inherently features control elements that, either automatically or manually (claim 10 and 12), switch via electronic or other means (claim 11) between one fiber probe and another, by the well known definition of how an optical switch operates.

As for claim 13, each probe 12 forms an individual measurement channel of a probe unit 40.

### ***Response to Arguments***

Applicant's arguments filed July 1, 2009 have been fully considered but they are not persuasive.

Applicant's arguments are based around two arguments. First, applicant argues that the Balachandran reference cited above fails to disclose the claimed transmitting element that is the radiation source and the modulation interferometer being integrated in the same unit as the

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transmission unit. The examiner respectfully disagrees, however, as the claim is silent as to the radiation source and the modulation interferometer being integrated in the same transmitting unit. The claim recites a transmitting element that includes a modulation interferometer and a radiation source, but just because the claim states that the transmitting element includes a modulation interferometer and a radiation source does not mean that the modulation interferometer and radiation source must be integrated or combined with one another. Since Balachandran discloses a modulation interferometer 22 and a radiation source 38 in series as set forth above, Balachandran discloses the claimed transmitting element.

Applicant's second argument is that detector 28 fails to act as an element to analyze a measuring radiation. While the examiner agrees that a detector cannot analyze, as is clearly shown in Balachandran, and as is indicated in the rejection above, detector 28 is attached to a computer 42 that performs the necessary analysis.

Accordingly, because Balachandran discloses the claimed invention, as set forth above in the rejections and in the preceding arguments, the rejection of the instant claims stands.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL A. LYONS whose telephone number is (571)272-2420. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley can be reached on 571-272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael A. Lyons/  
Primary Examiner, Art Unit 2877  
September 8, 2009